



Final Regulation Agency Background Document

Agency name	State Lottery Department
Virginia Administrative Code (VAC) citation	11VAC5-31
Regulation title	Licensing Regulations
Action title	Promulgate review and update of Licensing Regulations
Date this document prepared	8-8-12

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The existing regulation will be amended to reflect a general review by the State Lottery Department of this chapter. All sections within this chapter were reviewed for content, accuracy and clarity.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency or board taking the action, and (3) the title of the regulation.

The Board adopted as final the Virginia Lottery's proposed regulations pertaining to Licensing of Lottery Retailers (11 VAC 5-31), with the non-substantive amendment(s) noted herein, made on August 8, 2012.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

The State Lottery Department is adopting amended administration regulations pursuant to Chapters 575 and 321, 2008 Acts of Assembly (<http://leg1.state.va.us/cgi-bin/legp504.exe?081+ful+CHAP0575> and <http://leg1.state.va.us/cgi-bin/legp504.exe?081+ful+CHAP0321>).

Section 58.1-4007 states The Board shall have the power to adopt regulations governing the establishment and operation of a lottery. The regulations governing the establishment and operation of the lottery shall be promulgated by the Board after consultation with the Director. Such regulations shall be in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.).

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

It has been over nine (9) years since this chapter has been reviewed for changes and/or updates. In an effort to become more customer focused, the Agency is pursuing expanding our presence to the citizens of the Commonwealth and ensuring the integrity of our licensed retailers.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

Added language to further clarify the necessary documentation required to become a new license retailer and renewal of existing lottery retailers. Introduced a new classification, "special retailer licensing", to allow for the possible expansion of the Lottery's products into the market place. Added more flexibility for our licensed retailers to receive or maintain bonding requirements. Added language to define the expected ethical requirements of the Department's licensed retailers.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;
 - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and
 - 3) other pertinent matters of interest to the regulated community, government officials, and the public.
- If there are no disadvantages to the public or the Commonwealth, please indicate.

Advantages: The proposed amendments to this chapter will further enhance our transparency to our citizens and add additional clarification to our regulations. Adding language to allow for “Special retailers licensing” and expanding on various surety instruments available to bond existing or potential retailers could have a positive impact on expanding our retailer base.

Disadvantages: The agency does not foresee any disadvantages to the citizens and businesses of the Commonwealth.

Other: No other impact is anticipated.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
	11VAC5-31-30	Item C. was modified to remove retailer and replace with person	At this juncture (application), the person is not an approved retailer

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
None		

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, and rationale
	11VAC5-31-10		<p>Amended the definition of “Lottery retailer,” “lottery sales agent” or “retailer”.</p> <p>Amended definition of “Person”.</p>
	11VAC5-31-20		<p>Removed reference to submission of an application and/or forms does not entitle a retailer to sell lottery products.</p>
	11VAC5-31-30		<p>Inserted the removed verbiage from 31-20, (B), in reference to submission of forms does not entitle a retailer to sell products.</p> <p>Added language to clarify that failure to submit all required forms could cause the loss of opportunity to continue or become a lottery retailer.</p>
	11VAC5-31-40		<p>Added reference to the Code of Virginia (§ 58.1-4009) relating to licensing procedures for further clarification.</p> <p>Added language to further defined ethical expectations of our licensed retailers to protect the citizens of Virginia.</p> <p>Added “Special retailer licensing” to allow for possible expansion of product distribution i.e. seasonal sales, special events and limited products.</p>
	11VAC5-31-50		<p>Bond values were deleted and modifications were made to comply with the Code of Virginia § 58.1-4006, B., 3.</p> <p>Added language for combinations of surety instruments to include cash. This could allow more flexibility to attract new and existing retailers at renewal.</p>
	11VAC5-31-70		<p>Amended license term to define a specific term.</p> <p>Added reference to retailer accessibility based on the consent decree by the Circuit Court, on 1-27-11.</p>

	11VAC5-31-80		<p>Added license fee ceiling of \$100.</p> <p>Added annual license fee ceiling of \$70.00.</p>
	11VAC5-31-90		<p>Amended language to further clarify the inability of a sales agent to transfer or assign a license to anyone else.</p>
	11VAC5-31-100		<p>Removed requirement that a retailer display the license at all times.</p>
	11VAC5-31-110		<p>Repealed. Process is part of the retailer training.</p>
	11VAC5-31-120		<p>Practice is no longer required.</p>
	11VAC5-31-130		<p>Added language to further define retailer's responsibilities to avoid possible attempts to reveal winning tickets or plays.</p> <p>Added language that restricts retailers from charging an additional fee for selling or cashing a winning ticket.</p> <p>Added language to restrict retailer from purchasing a winning ticket from a player at a discounted price.</p> <p>Deleted item "G". The item is defined in the Code of Virginia, § 58.1-4007, 10.0</p>
	11VAC5-31-150		<p>Amended item "A" to allow variance of "up to" compensation to retailers. This modification reflects the changes in VAC5-31-40 for "Special retailer licensing". Retailers may not always be full service; therefore, would not be compensated as such.</p> <p>Added language to refer to the Code of Virginia as it relates to the Director's authorization of bonuses or incentive programs.</p>

	11VAC5-31-160		<p>Added number (5) to further define ethical requirements of retailers to further protect the public's interest.</p> <p>Added number (6) to further define ethical requirements of retailers to further protect the public's interest.</p> <p>Added number (7) to further define ethical requirements of retailers to further protect the public's interest.</p> <p>Added number (8) to further define ethical requirements of retailers to further protect the public's interest.</p> <p>Added number (9) to refer to the consent decree entered by the Circuit Court regarding retailer accessibility.</p> <p>Added language to ensure any licensees that do not comply with the law and policy can be subject to suspension, revoking or refusal of their license.</p>
	11VAC5-31-180		<p>Added language to allow the removal of lottery materials. Designed to protect the property of the lottery.</p>
	11VAC5-31-190		<p>Added language referencing inspection of premises will be held during normal business hours of the retailer. Modified to become more customer focused.</p>
	FORMS (11VAC5-31)		<p>Deleted forms that are no longer used or referenced in our regulations.</p> <p>Amended version number for the "Retailer License Application" form.</p>